

REMARKS

Reconsideration of the present application is hereby requested.

Claims 1 to 34 were and are currently pending in this application.

Claims 1 and 32 have been amended to more particularly claim the subject invention. More specifically, claims 1 and 32 have been amended to now specify that the dual layer jacket circumferentially surrounds and physically contacts an outer surface of the strength member. Support for these amendments can be found in paragraph numbers [0044], [0053], [0056] and [0080] as well as in FIGS. 1 to 3 of the specification, as filed. No new matter has been added.

Claim 33 has been allowed.

Claims 16, 21, 22 and 26 to 31 have been indicated as allowable if rewritten to independent form including all of the limitations of the base claim and any intervening claims.

The undersigned wishes to thank the Examiner for the courtesy extended in granting the telephone interview of November 16, 2004, during which the present Amendment was discussed.

In regard to the rejection of claims 1 to 10, 12, 23 to 25 and 32¹ under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,233,384 to Sowell, III *et al.*, Applicant respectfully submits that this rejection is untenable and should be withdrawn. Nothing in Sowell, III *et al.*, alone or in any permissible combination, teaches or even

¹ Although claim 32 was not listed in the grounds for rejection in the subject Office Action, this claim was discussed in the section following the § 102(b) grounds for rejection. Moreover, the Examiner confirmed during a telephone conference on October 21, 2004, that claim 32 should have been listed in the § 102(b) grounds for rejection.

remotely suggests the fiber optic cable of claims 1 to 10, 12, 23 to 25 and 32, as amended.

The present invention, as amended, generally relates to a fiber optic cable that comprises:

- (a) at least one optical fiber;
- (b) a primary buffer member circumferentially surrounding each optical fiber;
- (c) optionally, a heat insulating and dimensionally stabilizing member circumferentially surrounding the primary buffer member;
- (d) a secondary buffer member circumferentially surrounding either the primary buffer member or the heat insulating and dimensionally stabilizing member;
- (e) a strength member circumferentially surrounding the secondary buffer member; and
- (f) a dual layer jacket circumferentially surrounding and physically contacting an outer surface of the strength member, which comprises a heat or pressure sealed, low-shrinkage polymer film inner layer, and an outer protective layer.

Sowell, III *et al.* addresses the problem of mechanical or other damaging forces that are exerted on a fiber optic cable, solving this problem by using a rigid metal wire and a mechanical braid. More specifically, this reference teaches a fiber optic cable having an optic fiber core, a layer of rigid metal wire spiraled around the core at a minimum angle of 45° to the axis of the cable, and at least one layer of mechanical braid surrounding the layer of rigid metal wire. In the second embodiment contemplated by this reference, which is best shown in FIG. 2, the rigid metal wire layer (4) and the mechanical braid layer (5) are positioned between strength layer 14 and “sticky binder” layer 10, such that strength layer 14 does not physically contact “sticky binder” layer 10.

Where the fiber optic cable of claims 1 and 32, as amended, employs a dual layer jacket that circumferentially surrounds and physically contacts an outer surface of the strength member, these independent claims (as well as the claims which depend from these independent claims) cannot be anticipated by this reference. As such, withdrawal of the subject rejection is requested.

As further discussed during the subject interview, in paragraph 2 of the First Office Action, the Examiner has identified those layers in Sowell, III *et al.*² that in the Examiner's opinion correspond to layers in the fiber optic cable described in claim 1 of the subject application. Polymer jacket (11) of the fiber optic cable of Sowell, III *et al.* is missing from the listing in paragraph 2 suggesting that the Examiner was unable to find a corresponding layer in the fiber optic cable of claim 1. That being said, Sowell, III *et al.* cannot be held to anticipate the fiber optic cable of claim 1 where Sowell, III *et al.* clearly teaches that layer (10) is used only if polymer jacket (11) is present as a braided layer. See Col. 3, lines 37 to 41, of Sowell, III *et al.* In other words, if polymer jacket (11) is extruded or not used at all, layer (10) would not be present in the final cable construction.

In regard to the rejection of claims 11, 13, 14, 15, 17 to 19, 20 and 34³ under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,233,384 to Sowell, III *et al.*, Applicant respectfully submits that this rejection is also untenable and should be withdrawn. Nothing in Sowell, III *et al.*, alone or in any permissible combination, teaches or even remotely suggests the fiber optic cable of claims 11, 13 to 15, 17 to 19, and 20, as amended, or the process of claim 34.

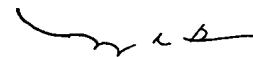
² The subject listing includes polymer film inner layer (10).

³ Although claims 15 and 20 were not listed in the grounds for rejection in the subject Office Action, these claims were discussed in the section following the § 103(a) grounds for rejection. Moreover, the Examiner confirmed during a telephone conference on October 21, 2004, that claims 15 and 20 should have been listed in the § 103(a) grounds for rejection.

As noted above, Sowell, III *et al.* relies upon a mechanical braid layer (5) and contiguous rigid metal wire layer (4) to deflect damaging forces away from the optic fiber (1) (see Col. 3, lines 49 to 56, of US '384). Where this reference fails to teach or suggest the elimination of one or both of these contiguous layers, it cannot be said to render obvious the fiber optic cable or process of the present invention, which both expressly or impliedly require physical contact between the dual layer jacket and the strength member.

Early reconsideration of the subject patent application in view of the above remarks is respectfully requested. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Respectfully submitted,



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